

Remarks

In connection with the above-referenced patent application and in response to the Office Action dated March 21, 2006 in connection therewith, and further in connection with the Request for Continued Examination (RCE) filed concurrently herewith, Applicant hereby amends claims 1 and 16 to overcome the outstanding rejection. Claims 9 and 24 are also trivially amended for reasons of form (*i.e.*, antecedent reasons), and claims 10 and 25 are also amended to depend directly from the corresponding independent claims thereof.

In the instant application, claims 1-30 are pending. In the instant Office Action, previous claims 1-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,658,565 issued to A. Gupta *et al.* on December 2, 2003 (hereinafter “*Gupta*”) in view of U.S. Patent No. 6,502,135 issued to E. Munger *et al.* on December 31, 2002 (hereinafter “*Munger*”). By way of this amendment, independent claim 1 has been amended to recite “the steps of:

- (a) identifying a plurality of network elements comprised in [a] communications network;
- (b) applying a burst load to a selected one of said identified network elements in said communications network;
- (c) measuring a change in said received packet rate in response to said application of said burst load to said selected network element;
- (d) *including said selected network element in a potential path* if said change in said received packet rate fails to meet a predetermined criterion; and
- (e) *repeating steps (b), (c) and (d) on other selected network elements* a plural number of times *to generate a path leading from said target host to said potential source* based on the selected network elements which have been included in said potential path” (emphasis added).

(Note that independent apparatus claim 16 has been amended in an analogous manner to that of independent method claim 1.)

Applicants first point out that support for the added limitations of claims 1 and 16 may, for example, be found on page 7, line 13 through page 10, line 10 of the specification and in Figure 1 thereof. And second, Applicants respectfully submit that these added limitations are neither taught nor suggested in either *Gupta* or *Munger*, either alone or in combination thereof.

More specifically, despite the Examiner's allegations as to the teachings of *Gupta* and *Munger* (with which the Applicants respectfully disagree, as indicated in the previous Office Action response), it is abundantly clear that neither *Gupta* nor *Munger* teach or suggest the steps of (or means for):

(i) "including [a] selected network element in a potential path if [a] change in [a] received packet rate fails to meet a predetermined criterion" and

(ii) "repeating [the steps of applying a burst load, measuring a resultant change in received packet rate, and including the network element in the potential path] on other selected network elements a plural number of times to generate a path leading from said target host to said potential source based on the selected network elements which have been included in said potential path."

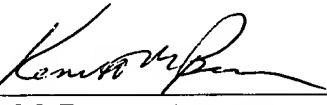
More specifically, in the only portion of *Gupta* explicitly cited by the Examiner (*i.e.*, col. 7, line 66 through col. 8, line 4), a technique of "spot-checking" a fraction of packets passing through a given "intermediate station" to search for unauthorized packets is being described. (*See, e.g., Gupta*, col. 7, lines 19-48.) Neither in this portion of *Gupta* nor any other is either "including [a] selected network element in a potential path if [a] change in [a] received packet rate fails to meet a predetermined criterion" or "repeating [the steps of applying a burst load, measuring a resultant change in received packet rate, and including the network element in the potential path] on other selected network elements a plural number of times to generate a path leading from said target host to said potential source based on the selected network elements which have been included in said potential path" disclosed or even suggested. And *Munger* (which has been cited by the Examiner solely as allegedly teaching the application of a burst load to a network element) clearly does not teach or suggest these steps (or means) either.

For at least the above reasons, Applicants respectfully submit that independent claims 1 and 16 are patentable over the cited references. And since each of the remaining dependent claims (*i.e.*, claims 2-15 and 17-30) depend from one of independent claims 1 and 16, these dependent claims are patentable over the cited references for at least the same reasons.

Specifically, therefore, Applicants submit that all of the instant claims are patentable over the cited references and respectfully submit that the instant application is in condition for allowance. Reconsideration of this application is respectfully requested in light of this submission. The Examiner is invited to telephone Applicant's attorney, Kenneth M. Brown, at (908) 582 - 5998, should there be any questions or issues for discussion in the reconsideration of the pending application.

Respectfully,

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